

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

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SPECIAL CIVIL APPLICATION No 1181 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 No
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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MY PATHAN

Appearance:

MR YN RAVANI for Petitioner

No one appears for the respondent despite service and despite the fact that the matter is on Board since 16.6.97.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 11/07/97

ORAL JUDGEMENT

The respondent was working as a conductor with the Gujarat State Road Transport Corporation. On the allegations of putting the Corporation to financial loss by allowing ticketless travelling etc., a departmental inquiry was held against him and on the basis of the inquiry report for proved charges of misconduct, the respondent was dismissed from service of the Corporation on 11.1.85. The respondent approached this Court by filing Special Civil Application No.155 of 1985 complaining that the dismissal order had been passed

against him without considering his reply. This court decided the said Special Civil Application on 16.2.85 directing that the reply filed by the present respondent may be considered and thereafter appropriate orders be passed in accordance with law. The Corporation considered respondent's reply and again passed the dismissal order dated 1.4.85 against the respondent. The respondent workman preferred a Departmental Appeal, which was rejected and, thereafter, he preferred Second Appeal in the Department on 23.12.85. This Appeal was partly allowed on 8.5.87 directing his reinstatement without backwages and with the punishment of reducing his pay by 2 stages. The respondent workman raised a dispute even against this order dated 8.5.87 and the Reference (IT) No.374/88 was decided by the Industrial Tribunal of Gujarat at Ahmedabad on 21.2.94 setting aside the punishment of reducing his pay by 2 stages, payment of full backwages from the date he was dismissed till the date he was taken back in service after the decision by the appellate authority in Second Appeal on 8.5.87 and all other consequential benefits.

The reading of the Award shows that the Industrial Tribunal has considered the findings of misconduct against the respondent as if it was sitting as an appellate authority and brushing aside the material, which was available against the respondent in the inquiry, the Tribunal has concluded that the respondent had no intention of committing any misconduct. The Industrial Tribunal has approached the inquiry into the allegations as if the checking party had obstructed the respondent from discharging his duties and thus the whole approach and the premise on which the matter has been examined by the Industrial Tribunal appears to be wrong and misconceived. In any case, it was not at all a case of total exoneration so as to set aside even the reducing the pay by two stages and to Award full backwages to the respondent. The respondent is already continuing in service and so far as the punishment of reducing the pay by 2 stages is concerned, the same can not be said to be inadequate in the facts and circumstances of this case and, therefore, I find that the Industrial Tribunal has examined the whole case in an absolutely misconceived perspective and the impugned Award suffers from a serious error of law in relation to the basic tenets of the adjudicatory process and thus it is clearly a case of error while exercising jurisdiction and the impugned award dated 21.2.94 cannot be sustained in the eye of law.

Accordingly this Special Civil Application

succeeds. The Award passed by the Industrial Tribunal, Gujarat at Ahmedabad in Reference (IT) No.374/88 dated 21.2.94 is hereby quashed and set aside and it is made clear that the rights and obligations of the parties shall be governed by the order dated 8.5.87, which had been passed by the departmental appellate authority of the Gujarat State Road Transport Corporation. Special Civil Application is allowed accordingly and Rule is made absolute. Interim order dated 23.2.95 is no more required to be continued as the main Special Civil Application itself has succeeded. No order as to costs.